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² Compl. at 1 (May 5, 2017).

1 and distributed a mailer at issue in this matter.³ Further, the Complaint alleges that the Committee
2 failed to include a printed box around a disclaimer on a campaign flyer.⁴ The Complainant also filed
3 three supplements to the complaint raising various disclaimer allegations: Committee emails did not
4 contain a printed box around disclaimers, the candidate's website disclaimer was not inside a printed
5 box, and disclaimers on other Committee materials were insufficient or difficult to read.⁵

6 The Committee contends that it did not have to file a 2017 April Quarterly report because it
7 did not raise or spend over \$5,000 by the end of the reporting period.⁶ The Committee explains that
8 it was being "overcautious" by filing its statement of organization before it exceeded the monetary
9 thresholds.⁷ Further, the Committee states that the website at issue is actually a blog the candidate
10 maintained before becoming a candidate, and he used the blog to share notices of public events
11 related to health, medicine, technology, and innovation.⁸ The Committee admits that Ayyadurai
12 posted campaign information on the blog, but states that it will ensure that future campaign emails
13 and flyers contain compliant disclaimers.⁹

14 An individual becomes a "candidate" when he or she receives in excess of \$5,000 in
15 contributions or makes expenditures in excess of \$5,000.¹⁰ When an individual becomes a
16 "candidate," the Act requires the candidate to file a Statement of Candidacy designating a candidate's

³ Comp. at 1; *see also* Compl. Attach. 1.

⁴ Compl. at 1; *see also* Compl. Attach. 2. The Complaint also alleges that the Committee should include the last name of the candidate in its own name. The Act makes no such requirement, so we make no recommendations as to this allegation.

⁵ Supp. Compl. 1 (June 19, 2017); Supp. Compl. 2 (June 23, 2017); and Supp. Compl. 3 (July 10, 2017).

⁶ Resp. at 1-2 (July 28, 2017).

⁷ *Id.* at 2.

⁸ *Id.* at 1.

⁹ *Id.* at 1.

¹⁰ 52 U.S.C. § 30101(2). A candidate's principal campaign committee becomes a "political committee" when the individual becomes a candidate. 11 C.F.R. § 100.5(d).

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1 principal campaign committee within fifteen days, and requires the principal campaign committee to
2 file a Statement of Organization no later than ten days after the candidate's designation.¹¹ The Act
3 and the Commission's regulations require each treasurer of an authorized political committee to file
4 quarterly reports of receipts and disbursements.¹² A candidate and committee may voluntarily
5 register and report before the candidate and the committee pass the relevant thresholds in the Act, but
6 such filings are not required.¹³

7 A "public communication" is defined as a "communication by means of any broadcast, cable
8 or satellite communication, newspaper, magazine, outdoor advertising facility, mass mailing, or
9 telephone bank to the general public, or any other form of general public advertising."¹⁴ The
10 regulations further require that disclaimers for printed communications must be conspicuous and
11 clearly state that they are paid for or authorized by a candidate or candidate's committee, state the
12 committee's street address, telephone number, or web address, be of sufficient type size to be
13 readable, and be in a printed box set apart from the rest of the communication.¹⁵

14 A review of the Committee's disclosure reports indicates that the Committee had not met the
15 reporting threshold by March 31, 2017.¹⁶ Since there is no information suggesting that the
16 Committee was required to file a 2017 April Quarterly report, we recommend that the Commission
17 find no reason to believe that the Committee violated 52 U.S.C. § 30104(a) and (b). Further,
18 although the Committee's communications did not contain wholly compliant disclaimers, the

¹¹ 52 U.S.C. §§ 30102(e)(1) and 30103(a).

¹² 52 U.S.C. § 30104(a), (b); 11 C.F.R. §§ 104.1, 104.3(a), (b), 104.5(a).

¹³ 11 C.F.R. § 104.1(b).

¹⁴ 11 C.F.R. § 100.26.

¹⁵ 52 U.S.C. § 30120(a), (c); 11 C.F.R. § 110.11(a)-(c).

¹⁶ The Committee timely filed its 2017 July Quarterly report, which disclosed receipts and disbursements beginning from the time the Candidate filed with the Commission in March 2017.

1 violations are technical in nature, and the Committee contends it has corrected the disclaimer in its
2 Committee emails and has added disclaimers to the Candidate's personal blog.¹⁷ Therefore, given
3 the corrective action of the Committee, as well as the *de minimis* nature of the disclaimer violations,
4 and in furtherance of the Commission's priorities, relative to other matters pending on the
5 Enforcement docket, we recommend that the Commission exercise its prosecutorial discretion to
6 dismiss the allegation that Shiva 4 Senate and Kate Lind in her official capacity as treasurer violated
7 52 U.S.C. § 30120(a) and (c).¹⁸

8 **RECOMMENDATIONS**

- 9 1. Find no reason to believe that Shiva 4 Senate and Kate Lind in her official capacity as
10 treasurer violated 52 U.S.C. § 30104(a) and (b);
11
12 2. Dismiss the allegation that Shiva 4 Senate and Kate Lind in her official capacity as
13 treasurer violated 52 U.S.C. § 30120(a) and (c) pursuant to the Commission's
14 prosecutorial discretion under *Heckler v. Chaney*, 470 U.S. 821 (1985);
15
16 3. Approve the Factual and Legal Analysis;
17
18 4. Approve the appropriate letters; and

¹⁷ The Complaint's allegation that disclaimers on websites and emails need to be inside a printed box is unfounded because such materials are not considered to be "printed." See 52 U.S.C. § 30120; 11 C.F.R. § 110.11(b) and (c)(2). See also Statement of Reasons, Comm'rs. Weintraub, Walther, Lenhard, Mason, Toner & von Spakovsky at 4, MUR 5526 (Graf for Congress, *et al.*) ("print" does not include communication on Internet pages and "neither the printing nor the existence of a printout transforms the Internet page itself into a printed communication" and "when FECA uses the words "Internet," "web," "website," or "electronic," or forms of these words, it does not mean something ordinarily understood as being in print or in printed form"); see also MUR 6662 (Heidi for Texas Campaign, Inc.) (emails do not fall under the definition of "public communications," and thus were not required to include disclaimer); MUR 6591 (Tom Stilson) (the Commission found no reason to believe that the committee's website needed to meet the "printed materials" requirements for its disclaimer); and MUR 6406 (Lee Terry for Congress, *et al.*) (the Commission found no reason to believe that a printed box was required around a disclaimer on an Internet campaign advertisement).

¹⁸ *Heckler v. Chaney*, 470 U.S. 821 (1985).

5. Close the file as to all Respondents.

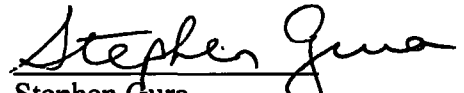
Lisa J. Stevenson
Acting General Counsel


Kathleen M. Guith
Associate General Counsel

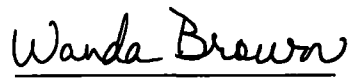
9.18.17

Date

BY:


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